

Assembly Bill No. 347

CHAPTER 526

An act to amend Sections 1240, 35186, 37254, 52378, and 52380 of the Education Code, relating to pupil instruction, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 2007. Filed with
Secretary of State October 12, 2007.]

LEGISLATIVE COUNSEL'S DIGEST

AB 347, Nava. Pupils: high school exit examination: intensive instruction and services.

(1) Existing law requires each pupil completing grade 12 to successfully pass the high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school.

Existing law provides specified funding for eligible pupils, as defined, who are required to pass the high school exit examination, to be used for intensive instruction and services for those pupils, and provides for the allocation of those funds, based on a per pupil rate calculation, to schools. As a condition of receiving funding, a school district is required to accomplish certain matters, including, among other things, ensure that each eligible pupil receives an appropriate diagnostic assessment to identify that pupil's areas of need and submit an annual report to the Superintendent of Public Instruction relating to the provision of intensive instruction and services to pupils.

This bill, among other things, would revise the definition of "eligible pupil" to include pupils who have not satisfied the requirement that they pass the high school exit examination in order to graduate from high school and have failed one or both parts of the examination by the end of grade 12; revise the calculation for determining the per pupil rate for purposes of funding; authorize the receipt of intensive instruction and services on Saturdays, evenings, or at a time and location deemed appropriate by the school district for eligible pupils; expand the authorized scope of intensive instruction and services to include instruction in English language arts or mathematics, or both, that eligible pupils need to pass those parts of the high school exit examination not yet passed and the provision of instruction and services by a public or nonpublic entity as determined by the local educational agency; require a school district to accomplish additional matters relating to pupils who have not passed one or both parts of the exit examination by the end of grade 12; and require the annual report to also include information relating to the notification of eligible pupils of the intensive instruction and services provided and be submitted to the appropriate county superintendent of schools.

(2) Existing law requires a school district to use its uniform complaint process to help identify and resolve any deficiencies related to instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, and teacher vacancy or misassignment. A notice regarding the appropriate subjects of a complaint is required to be posted in each classroom in each school in the school district and a complaint regarding those deficiencies is required to be filed with the principal of the school or his or her designee.

This bill also would require a school district to use its uniform complaint process to help identify and resolve any deficiencies related to intensive instruction and services provided to pupils who have not passed one or both parts of the high school exit examination after the completion of grade 12. The bill would also require the notice, for certain classrooms, to include certain information about the entitlement to receive the intensive instruction and services, and would require a complaint regarding any deficiency related to intensive instruction and services to be submitted to the district official designated by the district superintendent. By imposing additional duties on school districts, this bill would impose a state-mandated local program.

(3) Existing law establishes the Middle and High School Supplemental Counseling Program and requires the governing board of a school district that maintains any of grades 7 to 12, inclusive, as a condition of receiving funds appropriated for purposes of that program, to adopt a counseling program at a public meeting that includes, among other things, a provision for a counselor to meet with each pupil, as specified, to explain the academic and deportment records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, passage of the high school exit examination, and the availability of career technical education. In addition to these counseling services, a school district is required to identify certain pupils, such as those at risk of not graduating with the rest of their class, and to require its schools to provide certain assistance in developing a list of coursework and experience. As a further condition of receipt of funds, a school district is required to submit an annual report in a manner determined by the Superintendent that describes certain matters, including the number and percentage of pupils who participated in conferences and who fail to pass one or both sections of the high school exit examination.

This bill also would require the counselor to explain the availability, for up to 2 consecutive academic years after the completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, of intensive instruction and services for those pupils who have not passed one or both parts of the exit examination by the end of grade 12. The bill also would require a school district, for the identified pupils, to inform a pupil who has not passed one or both parts of the high school exit examination of the option of intensive instruction and services. The bill would require the report also to be submitted to the appropriate county superintendent of schools and contain an assurance that the school

district has complied with the provision that requires a school counselor to apprise a pupil of certain information during an individual conference.

(4) Existing law requires a county superintendent of schools to undertake specified duties regarding the oversight of the school districts within his or her jurisdiction.

This bill would require a county superintendent of schools to perform additional duties related to conducting school visits and verifying that pupils who have not passed the high school exit examination by the end of grade 12 are informed that they are entitled to receive intensive instruction and services for up to 2 consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the exit examination, whichever comes first, and verifying that those pupils who elected to receive the instruction and services are being served. By imposing additional duties on local educational agencies or officials, the bill would impose a state-mandated local program.

(5) This bill would make other technical, nonsubstantive changes to existing law.

(6) This bill also would incorporate additional changes in Section 52378 of the Education Code, proposed by SB 405, to be operative if SB 405 and this bill are both enacted and become effective on or before January 1, 2008, and this bill is enacted last.

(7) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

(8) By specifying a new purpose for the use of \$1.5 million of funds that would be appropriated to the State Department of Education in the Budget Act of 2007 for allocation to county offices of education, this bill would make an appropriation.

To the extent that the funds appropriated by this bill are allocated to a school district, which is defined to include, but is not limited to, a county board of education and a county superintendent of schools, which govern and administer, respectively, a county office of education, those funds would be applied toward the minimum funding requirements for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution.

(9) This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 1240 of the Education Code is amended to read:
1240. The county superintendent of schools shall do all of the following:

- (a) Superintend the schools of his or her county.
- (b) Maintain responsibility for the fiscal oversight of each school district in his or her county pursuant to the authority granted by this code.

(c) (1) Visit and examine each school in his or her county at reasonable intervals to observe its operation and to learn of its problems. He or she annually may present a report of the state of the schools in his or her county, and of his or her office, including, but not limited to, his or her observations while visiting the schools, to the board of education and the board of supervisors of his or her county.

(2) (A) For fiscal years 2004–05 to 2006–07, inclusive, to the extent that funds are appropriated for purposes of this paragraph, the county superintendent, or his or her designee, annually shall submit a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county describing the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index (API), as defined in subdivision (b) of Section 17592.70, and shall include, among other things, his or her observations while visiting the schools and his or her determinations for each school regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies. As a condition for receipt of funds, the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details for each school.

(B) Commencing with the 2007–08 fiscal year, to the extent that funds are appropriated for purposes of this paragraph, the county superintendent, or his or her designee, annually shall submit a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county describing the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the 2006 base API, pursuant to Section 52056. As a condition for the receipt of funds, the annual report shall include the determinations for each school made by the county superintendent, or his or her designee, regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, and the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details with the same level of specificity that is otherwise required by this subdivision. For purposes of this section, schools ranked in deciles 1 to 3, inclusive, on the 2006 base API shall include schools determined by the department to meet either of the following:

(i) The school meets all of the following criteria:

(I) Does not have a valid base API score for 2006.

(II) Is operating in fiscal year 2007–08 and was operating in fiscal year 2006–07 during the Standardized Testing and Reporting (STAR) Program testing period.

(III) Has a valid base API score for 2005 that was ranked in deciles 1 to 3, inclusive, in that year.

(ii) The school has an estimated base API score for 2006 that would be in deciles 1 to 3, inclusive.

(C) The department shall estimate an API score for any school meeting the criteria of subclauses (I) and (II) of clause (i) of subparagraph (B) and not meeting the criteria of subclause (III) of clause (i) of subparagraph (B), using available test scores and weighting or corrective factors it deems appropriate. The department shall post the API scores on its Internet Web site on or before May 1.

(D) For purposes of this section, references to schools ranked in deciles 1 to 3, inclusive, on the 2006 base API shall exclude schools operated by county offices of education pursuant to Section 56140, as determined by the department.

(E) In addition to the requirements above, the county superintendent, or his or her designee, annually shall verify both of the following:

(i) That pupils who have not passed the high school exit examination by the end of grade 12 are informed that they are entitled to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254.

(ii) That pupils who have elected to receive intensive instruction and services, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254, are being served.

(F) (i) Commencing with the 2010–11 fiscal year and every third year thereafter, the Superintendent shall identify a list of schools ranked in deciles 1 to 3, inclusive, of the API for which the county superintendent, or his or her designee, annually shall submit a report, at a regularly scheduled November board meeting, to the governing board of each school district under his or her jurisdiction, the county board of education of his or her county, and the board of supervisors of his or her county that describes the state of the schools in the county or of his or her office that are ranked in deciles 1 to 3, inclusive, of the base API as defined in clause (ii).

(ii) For the 2010–11 fiscal year, the list of schools ranked in deciles 1 to 3, inclusive, of the base API shall be updated using the criteria set forth in clauses (i) and (ii) of subparagraph (B), subparagraph (C), and subparagraph (D), as applied to the 2009 base API and thereafter shall be updated every third year using the criteria set forth in clauses (i) and (ii) of subparagraph (B), subparagraph (C), and subparagraph (D), as applied to the base API of the year preceding the third year consistent with clause (i).

(iii) As a condition for the receipt of funds, the annual report shall include the determinations for each school made by the county superintendent, or his or her designee, regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, and the county superintendent, or his or her designee, shall use a standardized template to report the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies, unless the current annual report being used by the county superintendent, or his or her designee, already includes those details with the same level of specificity that is otherwise required by this subdivision.

(G) The county superintendent of the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco shall contract with another county office of education or an independent auditor to conduct the required visits and make all reports required by this paragraph.

(H) On a quarterly basis, the county superintendent, or his or her designee, shall report the results of the visits and reviews conducted that quarter to the governing board of the school district at a regularly scheduled meeting held in accordance with public notification requirements. The results of the visits and reviews shall include the determinations of the county superintendent, or his or her designee, for each school regarding the status of all of the circumstances listed in subparagraph (J) and teacher misassignments and teacher vacancies. If the county superintendent, or his or her designee, conducts no visits or reviews in a quarter, the quarterly report shall report that fact.

(I) The visits made pursuant to this paragraph shall be conducted at least annually and shall meet the following criteria:

(i) Minimize disruption to the operation of the school.

(ii) Be performed by individuals who meet the requirements of Section 45125.1.

(iii) Consist of not less than 25 percent unannounced visits in each county. During unannounced visits in each county, the county superintendent shall not demand access to documents or specific school personnel. Unannounced visits shall only be used to observe the condition of school repair and maintenance, and the sufficiency of instructional materials, as defined by Section 60119.

(J) The priority objective of the visits made pursuant to this paragraph shall be to determine the status of all of the following circumstances:

(i) Sufficient textbooks as defined in Section 60119 and as specified in subdivision (i).

(ii) The condition of a facility that poses an emergency or urgent threat to the health or safety of pupils or staff as defined in district policy or paragraph (1) of subdivision (c) of Section 17592.72.

(iii) The accuracy of data reported on the school accountability report card with respect to the availability of sufficient textbooks and instructional materials, as defined by Section 60119, and the safety, cleanliness, and

adequacy of school facilities, including good repair as required by Sections 17014, 17032.5, 17070.75, and 17089.

(iv) The extent to which pupils who have not passed the high school exit examination by the end of grade 12 are informed that they are entitled to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254.

(v) The extent to which pupils who have elected to receive intensive instruction and services, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254, are being served.

(K) The county superintendent may make the status determinations described in subparagraph (J) during a single visit or multiple visits. In determining whether to make a single visit or multiple visits for this purpose, the county superintendent shall take into consideration factors such as cost-effectiveness, disruption to the schoolsite, deadlines, and the availability of qualified reviewers.

(L) If the county superintendent determines that the condition of a facility poses an emergency or urgent threat to the health or safety of pupils or staff as defined in district policy or paragraph (1) of subdivision (c) of Section 17592.72, or is not in good repair, as specified in subdivision (d) of Section 17002 and required by Sections 17014, 17032.5, 17070.75, and 17089, the county superintendent, among other things, may do any of the following:

(i) Return to the school to verify repairs.

(ii) Prepare a report that specifically identifies and documents the areas or instances of noncompliance if the district has not provided evidence of successful repairs within 30 days of the visit of the county superintendent or, for major projects, has not provided evidence that the repairs will be conducted in a timely manner. The report may be provided to the governing board of the school district. If the report is provided to the school district, it shall be presented at a regularly scheduled meeting held in accordance with public notification requirements. The county superintendent shall post the report on his or her Internet Web site. The report shall be removed from the Internet Web site when the county superintendent verifies the repairs have been completed.

(d) Distribute all laws, reports, circulars, instructions, and blanks that he or she may receive for the use of the school officers.

(e) Annually, on or before August 15, present a report to the governing board of the school district and the Superintendent regarding the fiscal solvency of a school district with a disapproved budget, qualified interim certification, or a negative interim certification, or that is determined to be in a position of fiscal uncertainty pursuant to Section 42127.6.

(f) Keep in his or her office the reports of the Superintendent.

(g) Keep a record of his or her official acts, and of all the proceedings of the county board of education, including a record of the standing, in each study, of all applicants for certificates who have been examined, which shall be open to the inspection of an applicant or his or her authorized agent.

(h) Enforce the course of study.

(i) (1) Enforce the use of state textbooks and instructional materials and of high school textbooks and instructional materials regularly adopted by the proper authority in accordance with Section 51050.

(2) For purposes of this subdivision, sufficient textbooks or instructional materials has the same meaning as in subdivision (c) of Section 60119.

(3) (A) Commencing with the 2005–06 school year, if a school is ranked in any of deciles 1 to 3, inclusive, of the base API, as specified in paragraph (2) of subdivision (c), and not currently under review pursuant to a state or federal intervention program, the county superintendent specifically shall review that school at least annually as a priority school. A review conducted for purposes of this paragraph shall be completed by the fourth week of the school year. For the 2004–05 fiscal year only, the county superintendent shall make a diligent effort to conduct a visit to each school pursuant to this paragraph within 120 days of receipt of funds for this purpose.

(B) In order to facilitate the review of instructional materials before the fourth week of the school year, the county superintendent in a county with 200 or more schools that are ranked in any of deciles 1 to 3, inclusive, of the base API, as specified in paragraph (2) of subdivision (c), may utilize a combination of visits and written surveys of teachers for the purpose of determining sufficiency of textbooks and instructional materials in accordance with subparagraph (A) of paragraph (1) of subdivision (a) of Section 60119 and as defined in subdivision (c) of Section 60119. If a county superintendent elects to conduct written surveys of teachers, the county superintendent shall visit the schools surveyed within the same academic year to verify the accuracy of the information reported on the surveys. If a county superintendent surveys teachers at a school in which the county superintendent has found sufficient textbooks and instructional materials for the previous two consecutive years and determines that the school does not have sufficient textbooks or instructional materials, the county superintendent shall within 10 business days provide a copy of the insufficiency report to the school district as set forth in paragraph (4).

(C) For purposes of this paragraph, “written surveys” may include paper and electronic or online surveys.

(4) If the county superintendent determines that a school does not have sufficient textbooks or instructional materials in accordance with subparagraph (A) of paragraph (1) of subdivision (a) of Section 60119 and as defined by subdivision (c) of Section 60119, the county superintendent shall do all of the following:

(A) Prepare a report that specifically identifies and documents the areas or instances of noncompliance.

(B) Provide within five business days of the review, a copy of the report to the school district, as provided in subdivision (c), or, if applicable, provide a copy of the report to the school district within 10 business days pursuant to subparagraph (B) of paragraph (3).

(C) Provide the school district with the opportunity to remedy the deficiency. The county superintendent shall ensure remediation of the deficiency no later than the second month of the school term.

(D) If the deficiency is not remedied as required pursuant to subparagraph (C), the county superintendent shall request the department to purchase the textbooks or instructional materials necessary to comply with the sufficiency requirement of this subdivision. If the department purchases textbooks or instructional materials for the school district, the department shall issue a public statement at the first regularly scheduled meeting of the state board occurring immediately after the department receives the request of the county superintendent and that meets the applicable public notice requirements, indicating that the district superintendent and the governing board of the school district failed to provide pupils with sufficient textbooks or instructional materials as required by this subdivision. Before purchasing the textbooks or instructional materials, the department shall consult with the district to determine which textbooks or instructional materials to purchase. All purchases of textbooks or instructional materials shall comply with Chapter 3.25 (commencing with Section 60420) of Part 33. The amount of funds necessary for the purchase of the textbooks and materials is a loan to the school district receiving the textbooks or instructional materials. Unless the school district repays the amount owed based upon an agreed-upon repayment schedule with the Superintendent, the Superintendent shall notify the Controller and the Controller shall deduct an amount equal to the total amount used to purchase the textbooks and materials from the next principal apportionment of the district or from another apportionment of state funds.

(j) Preserve carefully all reports of school officers and teachers.

(k) Deliver to his or her successor, at the close of his or her official term, all records, books, documents, and papers belonging to the office, taking a receipt for them, which shall be filed with the department.

(l) (1) Submit two reports during the fiscal year to the county board of education in accordance with the following:

(A) The first report shall cover the financial and budgetary status of the county office of education for the period ending October 31. The second report shall cover the period ending January 31. Both reports shall be reviewed by the county board of education and approved by the county superintendent no later than 45 days after the close of the period being reported.

(B) As part of each report, the county superintendent shall certify in writing whether or not the county office of education is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for two subsequent fiscal years. The certifications shall be classified as positive, qualified, or negative, pursuant to standards prescribed by the Superintendent, for the purposes of determining subsequent state agency actions pursuant to Section 1240.1. For purposes of this subdivision, a negative certification shall be assigned to a county office of education that, based upon current projections, will not meet its financial

obligations for the remainder of the fiscal year or for the subsequent fiscal year. A qualified certification shall be assigned to a county office of education that may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. A positive certification shall be assigned to a county office of education that will meet its financial obligations for the current fiscal year and subsequent two fiscal years. In accordance with those standards, the Superintendent may reclassify a certification. If a county office of education receives a negative certification, the Superintendent, or his or her designee, may exercise the authority set forth in subdivision (c) of Section 1630. Copies of each certification, and of the report containing that certification, shall be sent to the Superintendent at the time the certification is submitted to the county board of education. Copies of each qualified or negative certification and the report containing that certification shall be sent to the Controller at the time the certification is submitted to the county board of education.

(2) All reports and certifications required under this subdivision shall be in a format or on forms prescribed by the Superintendent, and shall be based on standards and criteria for fiscal stability adopted by the state board pursuant to Section 33127. The reports and supporting data shall be made available by the county superintendent to an interested party upon request.

(3) This subdivision does not preclude the submission of additional budgetary or financial reports by the county superintendent to the county board of education or to the Superintendent.

(4) The county superintendent is not responsible for the fiscal oversight of the community colleges in the county, however, he or she may perform financial services on behalf of those community colleges.

(m) If requested, act as agent for the purchase of supplies for the city and high school districts of his or her county.

(n) For purposes of Section 44421.5, report to the Commission on Teacher Credentialing the identity of a certificated person who knowingly and willingly reports false fiscal expenditure data relative to the conduct of an educational program. This requirement applies only if, in the course of his or her normal duties, the county superintendent discovers information that gives him or her reasonable cause to believe that false fiscal expenditure data relative to the conduct of an educational program has been reported.

SEC. 2. Section 35186 of the Education Code is amended to read:

35186. (a) A school district shall use the uniform complaint process it has adopted as required by Chapter 5.1 (commencing with Section 4600) of Title 5 of the California Code of Regulations, with modifications, as necessary, to help identify and resolve any deficiencies related to instructional materials, emergency or urgent facilities conditions that pose a threat to the health and safety of pupils or staff, teacher vacancy or misassignment, and intensive instruction and services provided pursuant to Section 37254 to pupils who have not passed one or both parts of the high school exit examination after the completion of grade 12.

(1) A complaint may be filed anonymously. A complainant who identifies himself or herself is entitled to a response if he or she indicates that a

response is requested. A complaint form shall include a space to mark to indicate whether a response is requested. If Section 48985 is otherwise applicable, the response, if requested, and report shall be written in English and the primary language in which the complaint was filed. All complaints and responses are public records.

(2) The complaint form shall specify the location for filing a complaint. A complainant may add as much text to explain the complaint as he or she wishes.

(3) Except as provided pursuant to paragraph (4), a complaint shall be filed with the principal of the school or his or her designee. A complaint about problems beyond the authority of the school principal shall be forwarded in a timely manner but not to exceed 10 working days to the appropriate school district official for resolution.

(4) A complaint regarding any deficiencies related to intensive instruction and services provided pursuant to Section 37254 to pupils who have not passed one or both parts of the high school exit examination after the completion of grade 12 shall be submitted to the district official designated by the district superintendent. A complaint may be filed at the school district office, or it may be filed at the schoolsite and shall be immediately forwarded to the designee of the district superintendent.

(b) The principal or the designee of the district superintendent, as applicable, shall make all reasonable efforts to investigate any problem within his or her authority. The principal or designee of the district superintendent shall remedy a valid complaint within a reasonable time period but not to exceed 30 working days from the date the complaint was received. The principal or designee of the district superintendent shall report to the complainant the resolution of the complaint within 45 working days of the initial filing. If the principal makes this report, the principal shall also report the same information in the same timeframe to the designee of the district superintendent.

(c) A complainant not satisfied with the resolution of the principal or the designee of the district superintendent has the right to describe the complaint to the governing board of the school district at a regularly scheduled hearing of the governing board. As to complaints involving a condition of a facility that poses an emergency or urgent threat, as defined in paragraph (1) of subdivision (c) of Section 17592.72, a complainant who is not satisfied with the resolution proffered by the principal or the designee of the district superintendent has the right to file an appeal to the Superintendent, who shall provide a written report to the state board describing the basis for the complaint and, as appropriate, a proposed remedy for the issue described in the complaint.

(d) A school district shall report summarized data on the nature and resolution of all complaints on a quarterly basis to the county superintendent of schools and the governing board of the school district. The summaries shall be publicly reported on a quarterly basis at a regularly scheduled meeting of the governing board of the school district. The report shall include the number of complaints by general subject area with the number of

resolved and unresolved complaints. The complaints and written responses shall be available as public records.

(e) The procedure required pursuant to this section is intended to address all of the following:

(1) A complaint related to instructional materials as follows:

(A) A pupil, including an English learner, does not have standards-aligned textbooks or instructional materials or state-adopted or district-adopted textbooks or other required instructional material to use in class.

(B) A pupil does not have access to instructional materials to use at home or after school.

(C) Textbooks or instructional materials are in poor or unusable condition, have missing pages, or are unreadable due to damage.

(2) A complaint related to teacher vacancy or misassignment as follows:

(A) A semester begins and a teacher vacancy exists.

(B) A teacher who lacks credentials or training to teach English learners is assigned to teach a class with more than 20-percent English learner pupils in the class. This subparagraph does not relieve a school district from complying with state or federal law regarding teachers of English learners.

(C) A teacher is assigned to teach a class for which the teacher lacks subject matter competency.

(3) A complaint related to the condition of facilities that pose an emergency or urgent threat to the health or safety of pupils or staff as defined in paragraph (1) of subdivision (c) of Section 17592.72 and any other emergency conditions the school district determines appropriate and the requirements established pursuant to subdivision (a) of Section 35292.5.

(4) A complaint related to the provision of intensive instruction and services pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254.

(f) In order to identify appropriate subjects of complaint, a notice shall be posted in each classroom in each school in the school district notifying parents, guardians, pupils, and teachers of the following:

(1) There should be sufficient textbooks and instructional materials. For there to be sufficient textbooks and instructional materials each pupil, including English learners, must have a textbook or instructional materials, or both, to use in class and to take home.

(2) School facilities must be clean, safe, and maintained in good repair.

(3) There should be no teacher vacancies or misassignments as defined in paragraphs (2) and (3) of subdivision (h).

(4) Pupils who have not passed the high school exit examination by the end of grade 12 are entitled to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, pursuant to paragraphs (4) and (5) of subdivision (d) of Section 37254. The information in this paragraph, which is to be included in the notice required pursuant to this subdivision, shall only be included in notices posted in classrooms in schools with grades 10 to 12, inclusive.

(5) The location at which to obtain a form to file a complaint in case of a shortage. Posting a notice downloadable from the Internet Web site of the department shall satisfy this requirement.

(g) A local educational agency shall establish local policies and procedures, post notices, and implement this section on or before January 1, 2005.

(h) For purposes of this section, the following definitions apply:

(1) “Good repair” has the same meaning as specified in subdivision (d) of Section 17002.

(2) “Misassignment” means the placement of a certificated employee in a teaching or services position for which the employee does not hold a legally recognized certificate or credential or the placement of a certificated employee in a teaching or services position that the employee is not otherwise authorized by statute to hold.

(3) “Teacher vacancy” means a position to which a single designated certificated employee has not been assigned at the beginning of the year for an entire year or, if the position is for a one-semester course, a position to which a single designated certificated employee has not been assigned at the beginning of a semester for an entire semester.

SEC. 3. Section 37254 of the Education Code is amended to read:

37254. (a) For purposes of this section, “eligible pupil” means a pupil who has not met the California High School Exit Examination requirement for high school graduation pursuant to Chapter 8 (commencing with Section 60850) of Part 33, and who has failed one or both parts of that examination by the end of grade 12.

(b) (1) From the funds appropriated for purposes of this section in the annual Budget Act or other statute, the Superintendent shall determine a per pupil rate of funding by dividing the total amount of funds appropriated for purposes of this section by the number of eligible pupils in grade 12 as reported by school districts in accordance with paragraph (7) of subdivision (d). The Superintendent shall then apportion to each school district an amount equal to the per pupil rate determined pursuant to this paragraph multiplied by the number of eligible grade 12 pupils reported pursuant to paragraph (7) of subdivision (d).

(2) If funds appropriated for purposes of paragraph (1) are not exhausted after the apportionment pursuant to paragraph (1) is made, the Superintendent shall determine a per pupil rate of funding for eligible pupils in grade 11 by dividing the total amount of funds appropriated for purposes of this section remaining after the apportionment pursuant to paragraph (1) has been made by dividing the total number of eligible pupils in grade 11 reported by school districts in accordance with paragraph (7) of subdivision (d). The Superintendent shall apportion to each school district an amount equal to the per pupil rate determined pursuant to this paragraph multiplied by the number of eligible grade 11 pupils reported pursuant to paragraph (7) of subdivision (d).

(3) The maximum per pupil rate of funding shall not exceed five hundred dollars (\$500) and shall be increased annually by the percentage determined in paragraph (2) of subdivision (b) of Section 42238.1

(c) (1) The funds described in subdivision (b) shall be used to provide intensive instruction and services designed to help eligible pupils pass the California High School Exit Examination.

(2) Intensive instruction and services may be provided during the regular schoolday provided that they do not supplant the instruction of the pupil in the core curriculum areas as defined in paragraph (5) of subdivision (a) of Section 60603, or physical education instruction. Eligible pupils may receive intensive instruction and services on Saturdays, evenings, or at a time and location deemed appropriate by the school district in order to meet the needs of these pupils.

(3) Intensive instruction and services may include, but are not limited to, all of the following:

- (A) Individual or small group instruction.
- (B) The hiring of additional teachers.
- (C) Purchasing, scoring, and reviewing diagnostic assessments.
- (D) Counseling.
- (E) Designing instruction to meet specific needs of eligible pupils.
- (F) Appropriate teacher training to meet the needs of eligible pupils.
- (G) Instruction in English language arts or mathematics, or both, that eligible pupils need to pass those parts of the high school exit examination not yet passed. A school district may employ different intensive instruction and services strategies more aligned to the needs and circumstances of pupils who have not passed one or both parts of the high school exit examination by the end of grade 12 as compared to grade 12 pupils with similar needs in a comprehensive high school of the district.

(H) The provision of instruction and services by a public or nonpublic entity, as determined by the local educational agency.

(d) As a condition of receiving funds pursuant to subdivision (c), the school district shall accomplish all of the following:

- (1) Ensure that each eligible pupil receives an appropriate diagnostic assessment to identify that pupil's areas of need.
- (2) Ensure that each pupil receives intensive instruction and services based on the results of the diagnostic assessment, and prior results on the high school exit examination.
- (3) Ensure that all pupils who have not passed one or both parts of the high school exit examination by the end of grade 12 are notified in writing at the last known address before the end of each school term of the availability of the services in sufficient time to register for or avail themselves of those services each term for two consecutive academic years thereafter and are notified of the right of a pupil to file a complaint regarding those services as set forth in Section 35186. In addition to notifying the pupil, or his or her parent or legal guardian if the pupil is under the age of 18, in writing, the notice shall be posted in the school office and district

office and on the Internet Web site of the school district, if applicable. The notice shall comply with the translation requirements of Section 48985.

(4) Ensure that all pupils who have not passed one or both parts of the high school exit examination by the end of grade 12 have the opportunity to receive intensive instruction and services as needed based on the results of the diagnostic assessment and prior results on the high school exit examination, as specified in paragraph (2), for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first. A school district shall employ strategies for intensive instruction and services that are most likely to result in these pupils passing the parts of the high school exit examination that they have not yet passed.

(5) Ensure that all English learners who have not passed one or both parts of the high school exit examination by the end of grade 12 have the opportunity to receive intensive instruction and services provided under paragraph (3) of subdivision (c) that also shall include services to improve English proficiency as needed based on the results of the diagnostic assessment and prior results on the high school exit examination, as specified in paragraph (2), to pass those parts of the high school exit examination not yet passed, for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first. A school district shall employ strategies for intensive instruction and services that are most likely to result in these pupils passing the parts of the high school exit examination that they have not yet passed.

(6) Demonstrate that funds will be used to supplement and not supplant existing services.

(7) Provide to the Superintendent, in a manner and by a date certain determined by the Superintendent, the number of eligible pupils at each high school in the school district.

(8) Submit an annual report to the Superintendent and the appropriate county superintendent of schools in a manner determined by the Superintendent that describes the manner and frequency in which eligible pupils were notified of the intensive instruction and services provided, the number of pupils served for each type of service provided, and the number of pupils in the school district who successfully pass the high school exit examination by each type of service provided.

SEC. 4. Section 52378 of the Education Code is amended to read:

52378. The Middle and High School Supplemental Counseling Program is hereby established for the purpose of providing additional counseling services to pupils in grades 7 to 12, inclusive. As a condition of receiving funds, the governing board of each school district maintaining any of grades 7 to 12, inclusive, shall do all of the following:

(a) The program shall be adopted at a public meeting of the governing board and shall include all of the following:

(1) A provision for individualized review of the pupil's academic and deportment records.

(2) A provision for a counselor to meet with each pupil and if practicable, the parents or legal guardian of the pupil, to explain the academic and deportment records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, passage of the high school exit examination, the availability of intensive instruction and services as required pursuant to subdivision (c) of Section 37254, for up to two consecutive academic years after the completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, for those pupils who have not passed one or both parts of the high school exit examination by the end of grade 12, and the availability of career technical education. The educational options explained at the meeting, if services are available, shall include college preparatory program and vocational programs, including regional occupational centers and programs and any other alternatives available to pupils within the district.

(b) In addition to the counseling services described in subdivision (a), school districts shall identify pupils who are at risk of not graduating with the rest of their class, are not earning credits at a rate that will enable them to pass the high school exit examination, or do not have sufficient training to allow them to fully engage in their chosen career, and shall do all of the following:

(1) Require each school within its jurisdiction that enrolls pupils in grades 10 and 12 to develop a list of coursework and experience necessary to assist each pupil in their respective grade that has not passed one or both parts of the high school exit examination and to successfully transition to postsecondary education or employment.

(2) Require each school within its jurisdiction that enrolls pupils in grade 7 to develop a list of coursework and experience necessary to assist each pupil in grade 7 who is deemed to be at the far below basic level in English language arts or mathematics pursuant to California Standards Tests administered to pupils in grade 6 to successfully transition to high school and meet all graduation requirements, including passing the high school exit examination.

(3) A copy of the list of coursework and experience necessary shall be provided to the pupil and his or her parent or legal guardian. The school district shall ensure that the list of coursework and experience is part of the cumulative records of the pupil.

(4) Inform the pupil who has not passed one or both parts of the high school exit examination of the option of intensive instruction and services.

(c) (1) In addition to the items identified in subdivision (b), the list of coursework and experience for a pupil enrolled in grade 12 shall include options for continuing his or her education if he or she fails to meet graduation requirements. These options shall include, but not be limited to, all of the following:

- (A) Enrolling in an adult education program.
- (B) Enrolling in a community college.
- (C) Continuing enrollment in the pupil's school district.

(D) Continuing to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first.

(2) A copy of the list of coursework and experience necessary shall be provided to the pupil and his or her parent or legal guardian. The school district shall ensure that the list of coursework and experience is part of the cumulative records of the pupil.

(d) As a condition of receipt of funds pursuant to this article, a school district shall require each school within its jurisdiction to offer and schedule an individual conference with each pupil, identified in paragraphs (1) and (2) of subdivision (b), and his or her parent or legal guardian, and a school counselor. The individual conference shall be scheduled, to the extent feasible, according to the following requirements:

(1) For a pupil enrolled in grade 7, the conference shall occur before January of that school year in which the pupil is enrolled in grade 7.

(2) For a pupil enrolled in grade 10, the conference shall occur between the spring of that school year in which the pupil is enrolled in grade 10 and the fall of the following school year in which the pupil would be enrolled in grade 11. For the 2006–07 school year, the conference shall occur on or before December 31, 2006.

(3) For a pupil enrolled in grade 12, the conference shall occur after November of that school year in which the pupil is enrolled in grade 12, but before March of the same school year.

(e) During the individual conference described in subdivision (d), the school counselor shall apprise the pupil identified in paragraphs (1) and (2) of subdivision (b), and his or her parent or legal guardian of the following:

(1) Consequences of not passing the high school exit examination.

(2) Programs, courses, and career technical education options available for pupils needed for satisfactory completion of middle or high school.

(3) Cumulative records and transcripts of the pupil.

(4) Performance on standardized and diagnostic assessments of the pupil.

(5) Remediation strategies, high school courses, and alternative education options available to the pupil, including, but not limited to, informing pupils of the option to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first.

(6) Information on postsecondary education and training.

(7) The pupil's score on the English language arts or mathematics portion of the California Standards Test administered in grade 6, as applicable.

SEC. 4.5. Section 52378 of the Education Code is amended to read:

52378. The Middle and High School Supplemental Counseling Program is hereby established for the purpose of providing additional counseling services to pupils in grades 7 to 12, inclusive. As a condition of receiving funds, the governing board of each school district maintaining any of grades 7 to 12, inclusive, shall do all of the following:

(a) The program shall be adopted at a public meeting of the governing board of a school district and shall include all of the following:

(1) A provision for individualized review of the academic and deportment records of the pupil.

(2) A provision for individualized review of the career goals of, and the available academic and career technical education opportunities and community and workplace experiences available to, the pupil that may support the pursuit of the goals of the pupil.

(3) A provision for a counselor to meet with each pupil and if practicable, the parents or legal guardian of the pupil to explain the academic and deportment records of the pupil, his or her educational options, the coursework and academic progress needed for satisfactory completion of middle or high school, passage of the high school exit examination, and eligibility for admission to a four-year institution of postsecondary education, including the University of California and the California State University, as well as the availability of intensive instruction and services as required pursuant to subdivision (c) of Section 37254, for up to two consecutive academic years after the completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first, for those pupils who have not passed one or both parts of the high school exit examination by the end of grade 12, and the availability of career technical education. The educational options explained at the meeting, if services are available, shall include the college preparatory program and career technical education programs, including regional occupational centers and programs and any other alternatives available to pupils within the school district.

(b) In addition to the counseling services described in subdivision (a), school districts shall identify pupils who are at risk of not graduating with the rest of their class, are not earning credits at a rate that will enable them to pass the high school exit examination, or do not have sufficient training to allow them to fully engage in their chosen career, and shall do all of the following:

(1) Require each school within its jurisdiction that enrolls pupils in grades 10 and 12 to develop a list of coursework and experience necessary to assist each pupil in his or her respective grade that has not passed one or both parts of the high school exit examination or has not satisfied, or is not on track to satisfy, the curricular requirements for admission to the University of California and the California State University, and to successfully transition to postsecondary education or employment.

(2) Require each school within its jurisdiction that enrolls pupils in grade 7 to develop a list of coursework and experience necessary to assist each pupil in grade 7 who is deemed to be at the far below basic level in English language arts or mathematics pursuant to California Standards Tests administered to pupils in grade 6 to successfully transition to high school and meet all graduation requirements, including passing the high school exit examination.

(3) Require each school within its jurisdiction that enrolls pupils in grade 7 to develop a list of coursework and experience necessary to assist each

pupil in grade 7 to begin to satisfy the curricular requirements for admission to the University of California and the California State University.

(4) Require each school within its jurisdiction to provide a copy of the lists developed pursuant to paragraphs (2) and (3) to the pupil and his or her parent or legal guardian. The school district shall ensure that the list of coursework and experience is part of the cumulative records of the pupil.

(5) Inform the pupil who has not passed one or both parts of the high school exit examination of the option of intensive instruction and services.

(c) (1) In addition to the items identified in subdivision (b), the list of coursework and experience for a pupil enrolled in grade 12 shall include options for continuing his or her education if he or she fails to meet graduation requirements. These options shall include, but not be limited to, all of the following:

(A) Enrolling in an adult education program.

(B) Enrolling in a community college.

(C) Continuing enrollment in the school district of the pupil.

(D) Continuing to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first.

(2) A copy of the list of coursework and experience necessary shall be provided to the pupil and his or her parent or legal guardian. The school district shall ensure that the list of coursework and experience is part of the cumulative records of the pupil.

(d) As a condition of receipt of funds pursuant to this article, a school district shall require each school within its jurisdiction to offer and schedule an individual conference with each pupil, identified in paragraphs (1) and (2) of subdivision (b), and his or her parent or legal guardian, and a school counselor. The individual conference shall be scheduled, to the extent feasible, according to the following requirements:

(1) For a pupil enrolled in grade 7, the conference shall occur before January of that school year in which the pupil is enrolled in grade 7.

(2) For a pupil enrolled in grade 10, the conference shall occur between the spring of that school year in which the pupil is enrolled in grade 10 and the fall of the following school year in which the pupil would be enrolled in grade 11. For a school operating on a multitrack, year-round calendar, the conference for a pupil enrolled in grade 10 shall occur in the timeframe that is equivalent to that specified timeframe for a school operating on a traditional calendar.

(3) For a pupil enrolled in grade 12, the conference shall occur after November of that school year in which the pupil is enrolled in grade 12, but before March of the same school year. For a school operating on a multitrack, year-round calendar, the conference for a pupil enrolled in grade 12 shall occur in the timeframe that is equivalent to that specified timeframe for a school operating on a traditional calendar.

(e) During the individual conference described in subdivision (d), the school counselor shall apprise the pupil identified in paragraphs (1) and (2) of subdivision (b), and his or her parent or legal guardian of the following:

- (1) Consequences of not passing the high school exit examination.
- (2) Programs, courses, and career technical education options available for pupils needed for satisfactory completion of middle or high school.
- (3) Cumulative records and transcripts of the pupil.
- (4) Performance on standardized and diagnostic assessments of the pupil.
- (5) Remediation strategies, high school courses, and alternative education options available to the pupil, including, but not limited to, informing pupils of the option to receive intensive instruction and services for up to two consecutive academic years after completion of grade 12 or until the pupil has passed both parts of the high school exit examination, whichever comes first.
- (6) Information on postsecondary education and training.
- (7) The score of the pupil on the English language arts or mathematics portion of the California Standards Test administered in grade 6, as applicable.
- (8) Eligibility requirements, including coursework and test requirements, and the progress of the pupil toward satisfaction of those requirements for admission to four-year institutions of postsecondary education, including, at least, the University of California and the California State University.
- (9) The availability of financial aid for postsecondary education.

SEC. 5. Section 52380 of the Education Code is amended to read:

52380. As a condition of receipt of funds pursuant to this chapter, a school district shall submit an annual report to the Superintendent and the appropriate county superintendent of schools in a manner determined by the Superintendent that describes the number of pupils served, the number of school counselors involved in conferences, the number and percentage of pupils who participated in conferences and who successfully pass the high school exit examination, and the number and percentage of pupils who participated in conferences and who fail to pass one or both sections of the exit examination, and a summary of the most prevalent results for pupils based on the graduation plans developed pursuant to this chapter. The report also shall contain an assurance that the school district has complied with subdivision (e) of Section 52378.

SEC. 6. Section 4.5 of this bill incorporates amendments to Section 52378 of the Education Code proposed by both this bill and SB 405. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2008, but this bill becomes operative first, (2) each bill amends Section 52378 of the Education Code, and (3) this bill is enacted after SB 405, in which case Section 52378 of the Education Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of SB 405, at which time Section 4.5 of this bill shall become operative.

SEC. 7. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and

school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

SEC. 8. (a) Of the funds appropriated in Item 6110-266-0001 of Section 2.00 of the Budget Act of 2007, up to one million five hundred thousand dollars (\$1,500,000) may be used to provide funding to county offices of education for the oversight activities required pursuant to subparagraph (E) of paragraph (2) of subdivision (c) of Section 1240 of the Education Code. The statewide organization that represents county superintendents of schools shall recommend a methodology for allocation of these funds to the Superintendent of Public Instruction by October 1, 2007. The Superintendent of Public Instruction may modify the methodology, subject to approval by the Department of Finance and 30-day notification to the appropriate policy and fiscal committees of the Legislature. Funds shall not be allocated prior to the expiration of the 30-day notification period.

(b) It is the intent of the Legislature that the allocation method specified in subdivision (a) be applied for the 2007–08 fiscal year and the determination of allocations for the 2008–09 fiscal year and each fiscal year thereafter be subject to the normal budget process.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide timely assistance to the pupils of the classes of 2006 and 2007 who have not passed one or both sections of the high school exit examination by the end of grade 12, it is necessary that this bill take effect immediately.